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May 10, 2013

VIA FACSIMILEHonorable Lisa Margaret Smith
United States Magistrate Judge
The Hon. Charles L. Brieant, Jr.
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, New York 10601-4150

Facsimile No.: (914) 390-4135

Re: **Nance Hutter v. Countrywide Bank, N.A., et al.**
Case Number 09 Civ. 10092 (ER)(LMS)

Dear Judge Smith:

We write this letter in response to the attached letter sent by email this afternoon by Gerhard Hutter to John T. Serio, Esq., the attorney for defendant Watermark Capital, as well as to all counsel. Mr. Hutter's letter is troubling in several respects. Not only is the letter inappropriate, may well be designed to interfere with the adjudication of this action but also is a thinly veiled threat to the physical safety of Mr. Serio and by extension, each of the attorneys representing the defendants in this action.

Pursuant to the Court's order, the deposition of Plaintiff in this matter is scheduled, and confirmed for Monday, Wednesday and Friday of next week. We reserved space at a court reporting service in White Plains to conduct the examination. However, due to the content and potential unexplored legal consequences of Mr. Hutter's letter we respectfully request that the first deposition session scheduled for this Monday May 13, 2013 be adjourned pending a court conference. We can appear on Monday.


We reserve all rights with respect to Mr. Hutter's letter, as we consider our rights, remedies, and obligations.

ZEICHNER ELLMAN & KRAUSE LLP

Honorable Lisa Margaret Smith
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We may also seek to hold the depositions in the courthouse, potentially under Marshall supervision.

Respectfully yours,



BJ Finneran, Esq.

BJF:jd
Enclosures

cc: Stephen A. Katz, Esq. (by facsimile)
Michael Janus, Esq. (by facsimile)
John T. Serio, Esq. (by facsimile)

Law office
John T. Serio
114 Old Country Road
Suite 420
Mineola, NY, 11501

Re: Nance M. Hutter vs. Citibank, Index No. 57298/2011
Deposition of Nance Hutter on April 12, 2013.

1. Several months prior to the deposition you and counsel of co-defendants in the companion cases (Hutter v. Countrywide and Hutter v. PNC bank) demanded Hippa releases for the complete and all medical files of the Plaintiff Nance M Hutter and are presently in possession thereof.
2. We reluctantly agreed to this because Plaintiffs Medical conditions, specifically her motor vehicle accident on 11/21/2006 are of issue at above cases.
3. Therefore, you have been and are privy to her detailed medical condition from that day forward; specifically that she was hit by a truck with a force of about 40 G, and consequently was diagnosed with a 21% disability rating. What that means in real terms, you - as learned officers of the court - are only too aware of.
4. It appears that you requested this confidential medical information to study the plaintiffs (mental) weaknesses, limitations, vulnerabilities, stamina, etc., to explore and misuse this information to manipulate and coerce her to agree and testify about issues and events she has no, or at best limited knowledge of, and/or confront her with documents of highly questionable integrity, she has no knowledge of. Such documents are evident especially in the second half of your "examination", when it becomes very clear what your intentions are and for what purpose. I am referring to an issue in the companion case Hutter vs. PNC bank (evolution) where we have a whole host of fraudulent documents at hand as evidence, as you only too well aware of.
5. In this course, you have not only aggravated my wife's condition but it appears that you have caused her additional pain, suffering and additional injury, not to mention all the side effects.
6. In the aftermath of this "deposition" we experienced a seemingly non ending escalation of the patient's anxiety, migraines and suffering with all kinds of side effects additionally to the intense pain she had to endure. After 4 days on April 16 2013 I (we) decided that an emergency visit to Dr. Litchman was imperative, Dr. Mueller was on vacation.
7. This resulted in Dr. Litchman's letter of 4/16, which was forwarded to you immediately. She also instructed to go to the Emergency Room at Stamford Hospital to get further tested and examined which we did immediately after we left her office.
8. The rest of the week and beyond Mrs. Hutter was in agony with excruciating headaches and mental anguish. Her appointment with Dr. Mueller on 4/24/13 resulted in the letter and findings he issued and addressed to the judges in all 3 cases.
9. To do this to an injured woman with TBI and a disability rating of 21% is not only unconscionable and cruel, a violation of a whole host of ethical standards, you are only too well aware of I don't

- hesitate to remind you, a violation of basic human rights, and the Americans with Disabilities Act (1990), not to mention just basic decency.
10. You did so with pre-meditation, intention and malice (some call you methods you employed mental torture).
 11. The attached Invoices reflect the medical expenses in this episode so far. They also should satisfy the curiosity of some "cynical" loudmouth colleagues of yours. I demand that you pay those Invoices directly forthwith, with a receipt forwarded to me.
 12. In the "Citibank" case (Watermark) which you represent and held this inquisition for, there is only one issue: Did your client and its associated Companies and officers/owners have a Mortgage broker license in New York or not? Since the answer is obvious (no), no amounts of weasel maneuvers will white wash that fact. You might as well face that fact.
 13. I, and only I negotiated those three mortgage deals with the collective Defendants, the hodge podge of companies and it's officers/owners, and others yet to be named, the details of which you know. The Plaintiff had absolutely nothing to do with any of them, except at the closing. Three weeks before the closing of the Countrywide mortgage on 12/11/2006, she was involved in a Motor vehicle accident (11/21/2006) and was seriously injured and partially disabled and was therefore not in possession of her faculties at that closing, a fact everyone present was very aware of. Therefore, she does not have any facts you can "press" out of her, no matter what you do and how many slick mental "tricks" you apply. Some call the methods you use torture.
 14. From the very beginning on 12/10/04 this entire collective affair was a fraudulent conspiracy to deceive, obfuscate, swindle, the public as partially described in our pleadings. The collusion is not only obvious, but clearly visible and already proven as far as I'm concerned. The fraud is broad and far reaching. The collusion seems to continue now through their lawyers, in order to cover up the truth and the facts. Your only "defense" seems to be, to use "in terrorum" effects, fraudulent documents and a host of threats to get the plaintiff to "drop the cases". In other words, a truly "criminal enterprise" as Professor Brescia, our expert who is an authority in these matters and teaches law (the ethical kind) in Albany and NYC, describes it.

It is impossible to describe the disgust and contempt I feel for you, both as a man and as a "professional". I just can promise you that this will not stand. Shame on you!

Gerhard P. Hutter
175 Hickory Kingdom Rd.
Bedford NY, 10506

BJ Finneran

From: Hutter [hutter311@optimum.net]
Sent: Friday, May 10, 2013 2:04 PM
To: Hutter; jtserio@optonline.net
Cc: BJ Finneran; mike@januslaw.com; Stephen A. Katz
Subject: Re: Serio re: Deposition 4/12/13
Attachments: 05-10-2013 11:17:23AM Stamf. Hosp..pdf

Stamford hospital

----- Original Message -----

From: Hutter
To: jtserio@optonline.net
Cc: BJFinneran@zeklaw.com ; mike@januslaw.com ; Stephen A. Katz
Sent: Friday, May 10, 2013 1:59 PM
Subject: Serio re: Deposition 4/12/13

Total Bills you owe so far: \$5930.32

Dr. Muellers bills will follow shortly.

Dr. Litchman prescription:

Frova 2.5mg tablets (30)

Costco \$1086.07

Total: \$7016.39

There maybe other bills on the way.